

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, JUNE 3, 2004, 1:00 P.M.**

CALL TO ORDER

Betty Willert, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Betty Willert, Chairperson	Mareth Kipp	Pat Haukohl
	Ellen Gennrich	Walter Kolb	Walter Baade

Commission

Members Absent: Vy Janusonis

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
Kathy Brady, Support Staff Supervisor

Guests Present:	Drew Terry	John Dahms	Sig Strautmanis
	Clare Dundon	John Erdmann	Drew Terry
	Mary Jo Goralski	Bill Adams	

Chairperson Willert welcomed Mrs. Haukohl as a new member to the Commission.

PUBLIC COMMENT

Chairperson Willert asked if anyone from the audience wished to address the Commission? There being no one, she moved to the next item on the agenda.

- **ZT-1443A (Geoff Robinson) Town of Brookfield, Section 29 (RM-2 Multi-Family Residential District to the RM-2 Multi-Family Residential District with (PUD) Planned Unit Development Overlay District)**

Mr. Mace presented the "Staff Report and Recommendation" dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph.

Mr. Mace indicated the property is located on the west side of Brookfield Road in the Town of Brookfield. Adjacent properties include a condominium project and senior living with assisted care. The rezoning is being requested for the development of an 18-unit condominium complex which will contain three, four-unit structures and three, two-unit structures. Mrs. Gennrich noted there was no public opposition and the project seemed appropriate. Mrs. Haukohl asked if a Planned Unit Development Overlay District was subject to Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance review by the Town or County? Mr. Mace replied, because the project is larger than one acre, it would be subject to County review. Mrs. Haukohl asked if a condition could be added regarding that fact? Mr. Mace answered, there would be no need to because the County's Ordinance requires it and a condition does not need to be added if it already is subject to the Ordinance. Mrs. Haukohl asked if a sentence could be added to the "Staff Report and Recommendation" regarding the fact? Mr. Mace replied, "Yes". The Commission agreed.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Gennrich and carried unanimously, for approval in accordance with the "Staff Report and Recommendation" with the following sentence added to the Staff Analysis section of the "Staff Report and Recommendation":

Approval is subject to the Waukesha County Stormwater Construction Site Erosion Control and Stormwater Management Ordinance review as noted in Section 1 A and Section 2 of said Ordinance.

The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **ZT-1237C (General Capital Group, LLC /Town of Waukesha) Town of Waukesha, Section 10**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting an amendment to the condition of rezoning for the property located at the northwest corner of Sunset Drive and Prairie Avenue to allow fast-food restaurants without drive-thru pick-up lanes.

Mr. Strautmanis, petitioner, presented a Site Plan to the Commission, showing the location of the vacant Kohl’s Food Store, a mini-mall, the senior housing project and possible fast-food restaurant. Mrs. Kipp asked if there was interest in the former Kohl’s Food Store? Mr. Strautmanis replied that individuals have been looking at the building, however, there are no prospects at this time. Mrs. Kipp expressed concerns regarding adding another restaurant to the area when so many have recently closed. Mr. Strautmanis said they have a “Letter of Intent” from Quizzno Subs. He further explained, any restaurant which does not have sit down service with tablecloths is considered “fast-food”. The type of restaurants allowed would be a sub shop or a potential deli, which serves salads or sandwiches without drive-thru lanes. Mr. Mace reiterated that drive-thru lanes would not be allowed. Mrs. Gennrich wondered why the area was being limited to no drive-thru restaurants when the area doesn’t seem to be that overly busy. Mr. Mace explained that in 1998 or 1999, when the Ordinance was originally amended for the project, access to Sunset Drive and Prairie Avenue was an issue and was limited due to the high volume of traffic. There was concern that fast-food drive-thru restaurant types of uses would add to the congestion. Mrs. Kipp asked how Culver’s received access to Sunset Drive? Mr. Mace responded that Culvers is not located on the site and is located in the City of Waukesha.

Mrs. Kipp felt that “fast-food” indicates drive-thru restaurants. Mr. Strautmanis said in discussions with the Town regarding whether the change was needed, the Town Chairman and Town Attorney indicated the Ordinance categorically states that a sub shop or deli which does not have sit down service is considered “fast food”.

After discussion, Mr. Baade moved, seconded by Mrs. Kipp and carried unanimously, for approval in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **SCU-1374 (Robert Quadracci) Town of Merton, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for earth-altering activities in conjunction with the replacement of concrete walks, limestone retaining walls with a brick walkway, a keystone retaining wall and the installation of a patio.

Mr. Mace indicated the property has frontage on Lake Keesus in the Town of Merton. The elevation drops 30’ to the lake on the north and east sides and approximately 10’ to the adjacent lot to the south. The petitioner is proposing to remove the existing limestone retaining and concrete walls, re-grade the

property and install a new keystone retaining wall, a brick walkway and bluestone patio on the east side of the residence. According to the Landscaping Plan submitted, the proposed replacement retaining wall would be 67' from the lake, however, the petitioner indicated he would be willing to terminate the wall to comply with the required 75' shore setback requirement. Mrs. Gennrich wondered why the company which designed the Landscape Plan placed the retaining wall closer than 75' from the lake. She added that they should know the Ordinance requirements.

Mrs. Haukohl asked, referring to Condition No. 4, who inspects whether the installation of the silt fence is completed appropriately. Mr. Mace replied that the Town Building Inspector is responsible. Mrs. Kipp asked, referring to Condition No. 2 if one month (from August 15, 2004) was enough time for re-vegetating the area? Mr. Mace answered that the job should be able to be completed within that timeframe and could be delayed until spring 2005 if the project cannot be started by August 15, 2004. He suggested if the Commission has concerns, the date could be changed to October 15, 2004. The Commission agreed and it was decided to change the date in Condition No. 2 to October 15, 2004. Mr. Erdmann, of Terra Tec Landscapes, Inc. said 46' would be the limit of construction along the upper ridge where the existing retaining wall would be removed. The grade would be adjusted so retaining walls would not be necessary lakeside.

After discussion, Mrs. Gennrich moved, seconded by Mr. Baade and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with a change to Condition No. 2 which will now read:

- 2. The project must be started no later than August 15, 2004, and be completed, with the disturbed area re-vegetated, no later than October 15, 2004. If the project cannot be started by August 15, 2004, it shall be delayed until spring 2005, with a requirement that it must be completed, with the disturbed area re-vegetated, no later than September 15, 2005.*

The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• CU-1151F (Nextel Communications, Inc.) Town of Genesee, Section 22

Mr. Mace presented the "Staff Report and Recommendation" dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit to extend the height of an existing cellular communications tower, co-locate additional antennae and install a pre-fabricated equipment shelter.

Mr. Mace indicated the property is located on the south side of C.T.H. "D", west of Brookfield Road in the Town of Genesee. The petitioners are requesting to extend the existing tower 10' to co-locate an additional twelve panel antenna and to install a 7' x 15' equipment shelter. Mrs. Gennrich asked if the neighbors were notified? Mr. Mace replied, "Yes", within 300'.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Kipp and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **CU-820E (Nextel Communications, Inc.) Town of Genesee, Section 6**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit to co-locate additional antennae on an existing cellular communications tower and install a pre-fabricated equipment shelter.

Mr. Mace indicated the property is located on the south side of S.T.H. 18 in the Town of Genesee. Mrs. Haukohl asked why the area was in the Industrial category? Mrs. Gennrich answered because there is a quarry nearby. Mr. Mace said that adjacent properties include Ace Redi-Mix, mini warehouses, Bartolotta Fireworks and the County compost facility with very limited residential. Mr. Kolb asked if there was a red light or a strobe light on the tower? Mr. Terry, petitioner, responded that he was unsure and noted the height of the tower is 250’. Mrs. Gennrich asked if the tower was a monopole? Mr. Mace answered, “No”.

After discussion, Mr. Kolb moved, seconded by Mr. Baade and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **CU-1373 (Freedom Fireworks) Town of Vernon, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for the temporary retail sale of fireworks.

Mr. Mace indicated the property is located on the southwest corner at the intersection of S.T.H. 164 and C.T.H. “ES” in the Town of Vernon. There was discussion regarding parking at the site. Mr. Mace said there is a driveway which accesses the site from C.T.H. “ES” and there is a gravel parking lot on the vacant property. There will be a 30’ x 60’ tent and two, 10’ x 10’ containers on the site for the business. Mrs. Gennrich approved of the conditions placed on business.

After discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

- **PO-04-VNT-2 (Freedom Fireworks) Town of Vernon, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Plan of Operation Permit for a temporary tent stand for the retail sales of Class “C” fireworks.

After a brief discussion, Mr. Kolb moved, seconded by Mr. Baade and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **PO-04-GNT-21 (Dahm's Precision Manufacturing) Town of Genesee, Section 27**

Mr. Mace presented the "Staff Report and Recommendation" dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Plan of Operation Permit for an after-the-fact general purpose machine shop.

Mr. Mace indicated the property is located in the Genesee Center, more specifically at the northwest corner of S.T.H. 59 and S.T.H. 83 in the Town of Genesee. He said that technically, the business is inappropriate for a light industrial use and is not compatible with the other commercial retail uses in the building. Mrs. Gennrich asked why the business is not compatible? Mr. Mace explained the business is a light manufacturing use and the shopping center is located in the B-3 General Business District where primarily retail is allowed. Mrs. Gennrich asked what the Town decided? Mr. Mace replied the Town had not heard the request. Mr. Mace said the staff is recommending denial because it is the wrong zoning category for this type of business. He added there is also an opportunity for the owner of the shopping center to request a rezone of the property.

Mrs. Kipp asked where in the building the business was located? Mr. Dahms, petitioner, responded, towards the back of the building, where a boat sales and repair business was formally located. He said he sub leases the space from Mr. Wallace who operates the Penguin Spa and Sauna/Windowworld USA. He explained the operation he and his wife run consists of lathing, running milling and screw machines. Materials including bar stock and castings are machined and shipped out as finished components. All of the work is completed inside the building and no spray painting is done. He added, the current owner Jeffrey Herren, spoke to him about changing the category on the property to allow industrial type uses such as his.

Mrs. Kipp said the business is inappropriate and not consistent for the current zoning (B-3 General Business District). Mr. Dahms said the Town has not heard the matter at this point. Mrs. Haukohl and Mrs. Gennrich thought the Town should hear the matter first. There was a lengthy discussion regarding the intent of the B-3 General Business District. Mr. Mace read from the Waukesha County Zoning Code, Section 15.01(1)(B) which explained the business and trades allowed in the B-3 General Business District. He further explained that the opportunity could exist that if the Town deems the business to be similar to the uses allowed under Section 15.01 (1)(B)(10) the Town Plan Commission could make a judgment or ruling which may allow the petitioner to continue in the B-3 General Business District. Mr. Mace pointed out that the M-1 Limited Industrial District does not allow drop forges, foundries, refineries, tanneries or any similar use, the normal operation of which causes objectionable noise, odor, dust or smoke and would also include any use as permitted in a B-3 General Business District. There was considerable concern regarding allowing an industrial use such as this, because other industrial uses may include loud noises and would not be conducive to the area. Mr. Kolb asked if the matter could be tabled until the Town of Genesee Plan Commission hears the matter? Mr. Mace answered, "Yes". Mrs. Kipp felt the original intent of placing the facility in the area was for retail type stores and services. She added it is not large enough and there is not much room for growth in the area and residential is close by. Mrs. Gennrich agreed and added the intent of the B-3 General Business District was to provide a service for the local residents. Mr. Kolb stressed he would like to see consideration given to the hardship which may be created because he does not believe the petitioner knew this type of business was not allowed. Mr. Mace noted that the Department has not issued citations for the after-the fact business.

After a lengthy discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, to table the request in accordance with the provisions of Section 15.04 (1)(B) 10 of the Waukesha County Zoning Code, whereby the Town of Genesee Plan Commission needs to make a determination whether the use, as proposed, is similar to other B-3 permitted uses.

• **PO-04-OCOT-15 (Jollymon's Cove) Town of Oconomowoc, Sections 35 and 36**

Mr. Mace presented the "Staff Report and Recommendation" dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Plan of Operation Permit for a name change of the operation, amplified music outside and special events.

Mr. Mace indicated the property is located on the south side of Lake Drive in the Town of Oconomowoc. He indicated the petitioners wish to expand the use to allow outside amplified music on Saturdays and Sundays from 11:00 a.m. to 8:00 p.m. and during 16 specified special events. The previous Conditional Use stated no amplified music be allowed outside the building at any time except during two special live music events proposed at that time. Mrs. Haukohl asked how close residential properties were to the establishment? Mr. Mace replied that residential properties surround the site.

The Town of Oconomowoc Plan Commission modified the request for expanded amplified music and special events and granted a reduced number of events at their May 3, 2004, meeting. Mrs. Gennrich asked if food and drink are able to be served outside? Mr. Cira answered "Yes". Mr. Mace said the Planning and Zoning Division Staff is recommending the additional outdoor events and outside music not be allowed. There have been numerous complaints regarding congestion on the lake in front of the restaurant. The area is primarily residential and outside amplified music is incompatible with surrounding residential uses. Mrs. Haukohl asked why the Town of Oconomowoc recommended for outside live or amplified music and additional events when there have been numerous past complaints? Mr. Mace answered that he was unsure, however, noted on May 3, 2003, the Town Plan Commission modified the request for expanded amplified music and special events and granted a reduced number of events. The Commission agreed that outside amplified music was not conducive with the surrounding residential neighborhood. Mrs. Gennrich asked if the Planning and Zoning Staff is requesting two special events as was authorized in the previous Conditional Use? Mr. Mace replied "Yes". Mrs. Gennrich asked if the events were one day events? Mr. Mace answered "No".

There was discussion as to what conditions were approved for the nearby Point Comfort Place restaurant. Mr. Kolb said he remembered, the Commission required the decibel limit for music not exceed 35 decibels as measured at the perimeter property lines of the property. Mrs. Haukohl clarified that under the existing Plan of Operation, the petitioner is allowed two special events with outside amplified music. Mrs. Gennrich asked if those two events are being removed? Mr. Mace replied, "No". There was a lengthy discussion regarding the length of an event. The Commission clarified the definition of a "special event" which would be limited to no more than two days and subject to approval by the Town Board, 10 days in advance of said events.

Ms. Dundon, Town of Delafield Supervisor, spoke on behalf of John and Pat Celek (who were unable to attend the meeting) residing on Road C (directly across the bay from Jollymon's). Amplified music has become a problem and carries over the water. They also question who owns the parking lot across the street and whether it should be paved. They are against any expansion of outside activities at Jollymon's, particularly amplified music. Mr. Cira said they are currently in litigation to purchase the parking lot across the street. Mr. Mace said he would have to look into the parking matter.

Chairperson Willert noted that Point Comfort Place is not allowed amplified outside music. She agreed with the Planning and Zoning Staff that the two existing special events are sufficient and no additional events should be approved. The Commission agreed. Mr. Cira asked that Jollymon's be able to have the same restrictions as Point Comfort Place and other establishments in the area.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Gennrich and carried unanimously, for denial of the request for additional outside amplified music and special events and allow two special events as previously allowed in the recently approved Conditional Use Permit, along with approval of the name change request for the restaurant/tavern. In addition, the Commission clarified the definition of a “special event” as being limited to no more than two days and subject to approval by the Town Board, 10 days in advance of said events. Further, the Commission required the decibel limit for said music not to exceed 35 decibels as measured at the perimeter property lines of the property.

Please note, these requirements are consistent with the Commission’s action and limits on the Point Comfort Place, which is in close proximity to Jollymon’s.

The approval of a portion of this request, as conditioned, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **PO-04-OCOT-14 (The Jewelry Mechanic) Town of Oconomowoc, Section 26**

Mr. Mace presented the “Staff Report and Recommendation” dated June 3, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting a Plan of Operation Permit to relocate the existing freestanding sign closer to the street.

Mr. Mace indicated the property is located on Brown Street in the Town of Oconomowoc. The petitioner was granted approval to relocate the sign from the Waukesha County Board of Adjustment on March 10, 2004. Mrs. Gennrich asked why does the petitioner need to relocate the sign? Ms. Goralski, petitioner, explained that the current sign is too far back from the road and is hard to see with the new Brown Street Market Place structure in place.

After discussion, Mrs. Kipp moved, seconded by Mr. Baade and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **1688 (The Enclave of Delafield) Town of Delafield, Section 11**

Mr. Mace presented “Correspondence submitted by the Town of Delafield” dated June 2, 2004, and made a part of these Minutes. He pointed out the location of the property on the aerial photograph and stated the petitioner is requesting an appeal of the Planning and Zoning Division’s decision for a 33 ft. private driveway easement for the Enclave of Delafield Subdivision.

Mr. Mace indicated the matter was tabled from the May 6, 2004, Commission meeting. He explained that in order to access the land to the south (Kranick property) the Planning and Zoning Division Staff in their “Conditional Approval of Preliminary Plat Letter” dated March 17, 2004, recommended in Condition No. 16 that the Town of Delafield should consider requiring a 33’ private easement for one driveway access to the Thomas Kranick property to the south, directly south of Lots 7 and 8. It would be difficult to access from the west, south and east without major grading and disturbance activities within the Primary Environmental Corridor (PEC). The Staff advised, the terrain is extremely wooded and if the private road was to be extended it would damage the PEC and add to the runoff problems mentioned by the public at the Public Hearing during heavy rains. The Staff also suggested the easement be removed in the event a Development Plan for the Kranick land was approved as a cluster. In addition, the Staff’s obligation is to plan for the ultimate use of all of the lands surrounding the area and to make sure no parcels become landlocked. In correspondence from Mr. Barbeau, Town of

Delafield Engineer, Mr. Kranick indicated he thought he had access to his property via the private street off of Hillcrest Drive, however, he did not provide written proof. If Mr. Kranick did have access, the Staff objected going up a steep slope, through a wooded environmental corridor to a house site and stated it would be devastating to the area and contribute to additional runoff. The Planning and Zoning Division Staff corresponded to the Town and suggested in the Plat review the requirement of the easement. The Town refused. At the May 6, 2004, Park and Planning Commission meeting the matter was tabled to ask for the Town's input. Mr. Barbeau, responded in a letter dated June 2, 2004. Mr. Mace read the letter into the record. As stated in the letter, the Town of Delafield Plan Commission rejected the required driveway easement. He pointed out that under Section 80.13 of the Wis. Statutes, a property owner who is shut out from access to his land may petition and require the Town to provide adequate access (driveway easement or Town road).

Mrs. Kipp said she spoke with Mr. Oberhaus, Chairman of the Town of Delafield Plan Commission, who indicated the Town felt strongly about this issue. She indicated to Mr. Oberhouse that when Plats are planned, the Planning and Zoning Division Staff considers access to any adjacent properties. The Town does not support the required easement due to the Environmental Corridor and Mr. Kranick does not want the requirement. The Town is more than willing to work with the County, however, cannot support this issue. Mr. Kranick feels there is the ability to access the parcel off of Hillcrest or off of C.T.H. "KE" and the requirement is not needed. She also does not support the Staff Recommendation. Mrs. Gennrich noted, regarding the statutory requirement to provide access that there is already access to the vast majority of the property. Mr. Mace said the Staff review letter suggested that the easement be provided at this time and if the Town decides to approve a PUD on Mr. Kranick's property, like "The Enclave", that they use it as part of the open space network and increase the density on the western end and keep it as open space. Mrs. Gennrich agreed. Mrs. Kipp asked, "Why require the road?" Mr. Mace replied that the Planning and Zoning Division Staff's job is to require adequate access to surrounding lands. Chairperson Willert said when there comes a time for Mr. Kranick to develop his land, and if there was not access to one acre, he could request access at that time. Mr. Mace responded, "Yes", however, it would depend on if the courts would suggest that he already has access from C.T.H. "KE". One reason for the Staff's position is that the land is extremely steep and extensive grading would be involved to accomplish reasonable access for the Town's fire and emergency equipment. Mrs. Gennrich said as long as the lands are under one owner, it would become "a lot not abutting a public road". Mr. Mace pointed out that it is a separate parcel and could be sold.

Mr. Barbeau, Town of Delafield Engineer said Mr. Lewis Kranick owns the larger parcel to the west. Mr. Tom Kranick owns the 13 acres in question and he would claim there are two separate owners. The Town views it as the Kranick holdings, in general. The Town's intent is that the 13 acres and the rest of the land should be developed as one piece. The Town's position is that if an easement is placed where it has been suggested, it is more than likely that Mr. Kranick may split the land and they do not wish to dictate what will happen on the property. Mrs. Haukohl said that two different family members may not get along and even though it is viewed as the "Kranick holdings" it is two separate pieces of property. Mr. Barbeau said the Town Plan Commission does not want to see an access along the boundary of the Plat.

Mr. Shaver, Director, Department of Parks and Land Use, explained that because it is a separate parcel it is looked at differently than if it were all one piece of property. The Staff, through the Waukesha County Subdivision Control Ordinance is trying to accomplish planned, orderly development. The separate parcels should be dealt with separately. The Town feels the easement would encourage added value for the parcel. If the easement was not provided, access to the site becomes a challenge. If the two lots were combined as a PUD, the 13-acre parcel could be divided into three lots, taking all of the development rights and have it dedicated as an outlot. Mrs. Gennrich asked, if a reasonable use must be

provided since the land is a separate Tax Key Number? Mr. Shaver replied, "Yes". He reiterated, that as a Staff, the County is in agreement with the Town to try to develop the entire Kranick lands as a PUD. Mrs. Kipp said it could enhance the value of the property and noted that Mr. Kranick has not officially asked for access and it is being assumed that at some point he would want to sell the property. She added it is not an easily buildable lot. Mr. Shaver agreed and added it is a pre-existing landlocked lot and the Town is saying if you provide the easement it would take away from the incentive to combine the 13-acres with the remnant parcel.

Mr. Kolb moved, seconded by Mr. Baade and carried unanimously for approval to remove the item from the table for discussion.

Mrs. Haukohl asked if Mr. Mace would change his recommendation? Mr. Mace replied the Planning and Zoning Division Staff stands by its Preliminary Plan Letter dated March 17, 2004.

After discussion, Mrs. Kipp moved, seconded by Mr. Baade and carried unanimously in accordance with the appeal process for plats, not to require a private easement and to remove Condition No. 16 of the "Conditional Approval of Preliminary Plat Letter" dated March 17, 2004. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

There being no further business to come before the Commission, Mrs. Gennrich moved, seconded by Mr. Baade to adjourn at 3:45 p.m.

Respectfully submitted,

Mareth Kipp
Secretary

MK:kb